

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

IN RE: NATHANIEL LIVINGSTON : APPEAL NO. C-090086
 : TRIAL NO. M-0801272
 :
 : *JUDGMENT ENTRY.*

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.¹

Nathaniel Livingston appeals the trial court's entry that ordered his extradition to Michigan. We dismiss the appeal as moot.

On November 5, 2008, a Hamilton County deputy sheriff took Livingston into custody pursuant to a warrant from the state of Michigan. Livingston refused to waive extradition proceedings and was committed to the custody of the Hamilton County Justice Center, pending Michigan's acquisition of a governor's warrant. He requested that counsel be appointed to represent him. A hearing that was scheduled for December 4, 2008, was continued at the request of the state of Michigan. Michigan requested and was granted a further continuance on January 5, 2009. The new hearing on the extradition proceedings was scheduled for January 29, 2009.

On January 15, 2009, Michigan presented a signed governor's warrant for Livingston's extradition. A hearing was held during which Livingston was represented by appointed counsel. During the hearing, the trial court acknowledged that there had been a breakdown as far as the earlier appointment of counsel for Livingston, but that Livingston was currently represented. Livingston's counsel

¹ See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

acknowledged that Livingston could only challenge the extradition if the warrant was flawed or if he disputed that he was subject of the warrant. Neither of those bases for challenging the extradition was present. The trial court ordered that Livingston be extradited to Michigan.

We consider Livingston's assignments of error together. In the first, he asserts that the trial court erred in not appointing counsel earlier in the proceedings. In the second, he asserts that the failure of the court to appoint counsel had a prejudicial impact on his case, and that the judgment should be voided. And in the third, he asserts that he was deprived of the effective assistance of counsel. We conclude that all the assignments of error are moot. The record indicates that the trial court ordered that Livingston be extradited to Michigan on January 15, 2009. Presumably, the extradition occurred over a year ago. Even if we were to sustain his assignments of error, there is no relief that this court could now provide Livingston. Because the assignments of error are moot, we dismiss the appeal.

A certified copy of this judgment entry is the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

SUNDERMANN, P.J., HENDON and DINKELACKER, JJ.

To the Clerk:

Enter upon the Journal of the Court on May 12, 2010

per order of the Court _____.
Presiding Judge